

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

CARL LEWIS,)	Case No.: 2:06cv237-CSC
)	
Plaintiff,)	CITY OF MONTGOMERY’S MOTION
)	FOR LEAVE TO FILE REPLY BRIEF
vs.)	
)	
)	
CITY OF MONTGOMERY,)	
)	
Defendant.)	
)	
)	
)	
)	

COMESNOW the city of Montgomery, Defendant in the above-styled action, by and through undersigned counsel, and moves this Honorable Court to grant it leave to file a reply brief to Plaintiff’s memorandum in opposition to the city’s Motion for Summary Judgment, and as grounds therefore, asserts the following:

1. This Court’s order of May 31, 2007 regarding the submission of summary judgment directs that the issue shall be submitted on the documents or evidence “the party seeking summary judgment has already filed or which the plaintiff may wish to file in response on or before June 29, 2007. (Doc.18).
2. In his memorandum in opposition to summary judgment, the plaintiff has raised new issues not previously argued in this case. More specifically, the plaintiff has now alleged a harassment hostile work environment claim, a claim which was also not raised in the plaintiff’s EEOC complaint.
3. The plaintiff also identifies three new comparators who have not been identified in this case heretofore, either in pleadings or Rule 26 initial disclosures.

4. Moreover, the plaintiff has submitted at least seven exhibits in support of his memorandum in opposition which do not comply with either Rule 56 or this Court's order regarding the submission of sworn testimony, and the defendant does not wish to waive any right it may have to object and challenge these submissions by failing to timely address them.

5. The defendant would be prejudiced if not given the opportunity to brief these new issues.

WHEREFORE, the above premises considered, the city of Montgomery prays that this Honorable Court will grant it leave to file a reply brief and at least seven (7) days in which to do so.

Respectfully submitted this the 29th day of June, 2007.

/s/ Wallace D. Mills
WALLACE D. MILLS (MIL090)
Assistant City Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of June, 2007, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system which will send notification of such filing to the following parties or counsel:

Juraldine Battle-Hodge

and I hereby certify that I have mailed by United States Postal Service the document to the following:

Juraldine Battle-Hodge, Esq
207 Montgomery Street, Ste. 215
Montgomery, AL 36104

/s/Wallace D. Mills
Wallace D. Mills